section 34 of the Land Code), then the rating authority, in assessing the annual value, must have regard to the effect of that condition upon the rent at which the holding might reasonably be expected to let to a hypothetical tenant from year to year.

Since the appeals before me have been brought in order to obtain a declaratory statement of the law, I am not in a position to exercise the ordinary powers of the Court on the hearing of an appeal which would include the substitution, in appropriate cases, of a reduced assessment for the assessment made by the Town Council. The only order which I am able to make, and I make it accordingly, is that the cases of all the appellants in Categories A(i), A(iii) and A(iv), including the special case No. 227 of 1957, be referred back to the Town Council for reconsideration of the assessments in the light of the declaratory judgment which I have given.

By consent there will be no order for costs.

Order accordingly.

Solicitors: *Chabra & Dharmananda; Cheang Lee & Ong; Das & Co.*

MANAP BIN ALI v. PUBLIC PROSECUTOR

[C.A. (Hill Ag. C.J., Good and Neal JJ.) July 23, 1958]

[K.L. — F.M. Criminal Appeal No. 7 of 1958]

Criminal Law and Procedure — Murder trial — Summing-up to jury — Non-direction — Effect of.

It is settled law that in summing-up in a murder case a trial Judge must direct the jury regarding the ingredients of the offence of murder, and if he does not do so, the absence of such a direction must be fatal to a conviction.

Case referred to:—

(1) *Hashim bin Mat Isa v. Public Prosecutor*, (1950) M.L.J. 94.

COURT OF APPEAL (Appeal from Johore Bahru).

Paul Wong for the appellant.

Mohd. Salleh bin Abas (Federal Counsel) for the respondent.

The judgment of the Court was delivered by —

Hill Ag. C.J.: — The appellant had been convicted of murder and sentenced to death.

In his summing-up to the jury the learned trial Judge stated "I am not going to bother you with the definition of murder, because the issue in this case is quite clear." It is settled law (see the judgment of the Court of Appeal in *Hashim bin Mat Isa v. Public Prosecutor*[1]) that in summing-up in a murder case a trial Judge must direct the jury regarding the ingredients of the offence of murder, and if he does not do so, the absence of such a direction must be fatal to a conviction.

In this case too there was a total and complete failure on the part of the trial Judge to give any such direction. For this reason we quashed the conviction and sentence and ordered a new trial.

The other grounds of appeal were not considered.

New trial ordered.

Solicitor: *Paul Wong Mun Yong.*